

E 668

. M 99

permalife®
pH 8.5

S P E E C H

OF

HON. LEONARD MYERS,
OF PENNSYLVANIA,

DELIVERED IN THE HOUSE OF REPRESENTATIVES,

MARCH 24, 1866.

THE RESPONSIBILITIES OF CONGRESS.

ACCEPTANCE OF THE RESULTS OF THE WAR THE TRUE BASIS OF RECONSTRUCTION.

LIBERTY REGULATED BY LAW THE SAFEGUARD OF THE REPUBLIC.

WASHINGTON, D. C.:
PRINTED AT THE "CHRONICLE" OFFICE.
1866.

E668
.M99

Prochazka
West. Res. Hist. Soc.

21

RECONSTRUCTION.

The House, as in Committee of the Whole on the state of the Union, having under consideration the President's annual message—

Mr. MYERS said:

MR. SPEAKER: We are passing through the most interesting period of American history. No higher duties, no graver responsibilities, no prouder privileges ever devolved upon men than those which the American people have accepted and discharged in the last five years. Every attribute of manhood has been called forth by the struggle for a nation's existence, until purified by the ordeal we have risen in the scale of honor and of civilization. Happy in the arts of peace, treason's poisoned dagger found us unarmed. Yet to-day rebellion and treason lie prostrate, while the slave power, which for years sapped the foundations of our liberties, at last striking at the life of the Republic, learned, in its own dying agonies, that there is nothing so terrible as the wrath of a free people. I need not recount the story of these years of battle, when the rivers were reddened and the fields drenched with the blood of those who should have been brothers. The right has triumphed. Unsympathizing nations abroad have taken good heed of it. We are at this time the most powerful empire on the globe. Nor have I the time to signalize acts of heroism where all were heroes. The trumpet of fame will be broken when they are forgotten. Who shall tell of the unreturning brave, or sprinkle over their graves the sweet incense of a nation's gratitude? Unnumbered thousands of them went down to death, willingly as the bridegroom to the altar. But they died that liberty might live, and a Union preserved is their monument, imperishable as the eternal hills. What meed of praise, what public honors, what high rewards can suffice for their noble survivors, many of them maimed and crippled forever in this holiest of causes? Where shall the balm be found for those who sorrow, and like Rachel, mourning for their children too, will not be comforted?

We have been lifted out of the sordid and common-place into the generous, the lofty, and patriotic—the purest sympathies of our nature constantly brought into action. A world looked on amazed as courage unsurpassed, faith untiring, charity beyond bounds, and zealous love of country won for us the moral as well as physical victory. Childhood already girded on the sword for the conflict. The women were worthy of the women of the Revolution. As words of cheer from home strengthened the arms of our defenders, from camp and deck and battle-front their thanks were echoed; while amid the very thunder of artillery the American soldier, still the American citizen, sealed with his ballot the verdict of the people, whose voice in this happy land has always been more potent than bayonets.

The Representatives of the people reflected this overwhelming sentiment. The bolder their stand the more loudly were they applauded. They voted men,

and as from the dragon's teeth in the olden mythology, or at the whistle of Roderick Dhu, men sprang up in every furrow and by every hill-side. They voted money, and laid heavy taxes to obtain it. The citizens gladly paid the taxes and took the Government loans, a million a day. The shafts of death thinned our armies, conscription laws, at all times unpleasant, were received almost without a murmur, and through the popular exertions rarely needed to be enforced. Generals failed; amid universal acquiescence, Congress placed a lieutenant general over them who knew no such word as fail. It gave higher pay and bounty and pension for the soldier and sailor. It thanked the brave on all fitting occasions. With a President, whose name will ever be coupled with that of the Father of his Country, the Cabinet and national legislature faltered not in this trying emergency. In field and council, at home and abroad, the people of the North were true, and the boast of the Roman was not prouder than that of him who could say, "I am an American citizen."

When I speak of the people I mean the majority. The right of the majority to rule is the principle underlying all our institutions. The rebellion was a rebellion against this principle. The overthrow of the confederacy is its triumph and vindication. In the North it continued to be respected. During all this bloody strife, however, a factious minority to the extent of its power clogged the progress of the national arms. The masses are always honest, but designing leaders, ambitious of power rather than false to their country, endeavored to misguide them.

When the life of the nation was trembling in the balance, when nothing but the suspension of the writ of *habeas corpus* could save it, these leaders quibbled less as to its necessity than as to where the power was vested. Abraham Lincoln cut the Gordian knot, suspended the writ, and saved the country. The quibblers spent years denying that he did it constitutionally, although Congress had ratified the legality of the act. Reinforcements were begged for at the front; the factionists denounced the draft and the enlistment of negroes, although these measures added half a million to our armies; they opposed the soldier's cause; they denied him the right to vote; they voted to continue slavery. In a word, they clung to the slave power, asserted the war for the Union to be a failure, and when the cup of victory was at the very lips of the nation would have dashed it to the earth.

After the disastrous battle of Cannæ, the Roman senate waited upon Terentius Varro, thanking him that at least he had not *despaired* of the republic.

What shall be said of those who, in the fullness of our strength, when our arms were triumphant and our cause nearly won, almost paralyzed the public energies by despairing of the contest?

The irresistible logic of events swept over them like an avalanche, and their posterity may be grateful if it has covered them with the waters of oblivion.

With these exceptions, as I have said, the North was true. In the South, if loyalty existed, it was hid from us by a wall of fire.

Mr. Speaker, the war is over; the spirit of the rebellion is not all dead, but armed resistance to the national authority has ceased. The sword has done its work, and the duties of statesmanship step in to perfect it. The Thirty-ninth Congress meets to consider questions of greater magnitude than have been presented since the formation of the Government. The eyes and the hopes of patriots everywhere are turned to it. The telegraphic flashes of its discussions from day to day are eagerly scanned. By every hearthstone where there is a vacant chair—from every corner of the land where loyal hearts beat, North and South—the prayer ascends to heaven that all this blood and agony and sacrifice may not have been in vain, that the dreadful lessons of these sad years shall not pass unheeded; above all, that those whom the people have chosen to legislate for them shall, in the great work of reorganization, be true to the principles which triumphed in the contest, and see to it well that the germs of another rebellion are excluded in the organic laws which are to unite us again.

And now, let us, as Representatives of a great nation, counsel together; for if we fail in our duty now the wrong may be irreparable; if we discharge it manfully and justly, millions yet unborn shall rise and call us blessed.

One great question overshadows while it includes all the rest. The eleven States which attempted secession are knocking at the doors of Congress claiming immediate admission for those whom they have chosen Senators and Representatives. Are these States entitled at this time to such recognition?

And again, who shall admit or reject them? What are the grounds, if any, for their present exclusion, and what the conditions and qualifications requisite to secure them representation?

In determining this whole subject, important as it is, we need no fine-spun theories. The law is so plain that he who runs may read it. A calm statement of the facts will suggest the remedy, solving any difficulty.

It is useless to discuss whether the rebel States have ever been out of the Union. Some stoutly assert that secession, not being legal, was impossible. A successful revolution would certainly have contradicted this idea. Again, if the people of South Carolina, dissatisfied with the Government, had all left her borders, only the territorial limits of the State would have remained. The rebellion, however, failed, and there was no honorable egress. These States and their people were all the time legally in the Union; the triumph of our arms alone made them actually so once more. But one thing all can agree upon. For four years these eleven States were beyond the national control. They defied the Constitution and laws of the Union. They set up a new constitution, anti-republican and founded on slavery. As States, so far as they could, they severed the bonds which knit them to the rest. They broke up their old State governments and erected new ones, and made new laws to suit the condition they were trying to bring about. Whether they were in or out of the Union is quite immaterial. Only three days before his death Mr. Lincoln pronounced this "a merely pernicious abstraction." "We all agree," said he, "that the seceded States, so-called, are *out of their proper practical relation* with the Union, and that the sole object of the Government, civil and military, is to again get them into that proper practical relation." President Johnson, in his annual message, tells us "*their functions are suspended*." I accept these definitions, and believe in them.

A suspension of functions necessitates a restoration by some power, or the State, as such, will die. Who has the power to restore it? Some contend that the Executive has it, others that it rests with Congress. The solution is an easy one. The law-making power is supreme in this land, and except where the assent of the Executive aids in passing the law, his sole power is to execute it.

Either the rebellious States could legally at any time during the rebellion have resumed their places in the Congress of the Union or they could not. If the law then or now would have permitted it, then or now it could be done without order, direction, or authority from the President. The decision, then, rests either with these States or with Congress.

No sane man will assert the monstrous doctrine that the confederacy could have kept its armies in the field and sent even loyal men to the Congress of the United States. War then makes a difference. The laws which were violated by foul rebellion cannot be held up as its shield. The parent authority, it is true, might have consented at any time to a restoration, and while the war brought no change of civil relations, was willing on a due submission to do so; but the party who breaks the contract cannot set it up at his pleasure; and though these rebel States violently suspended their own functions, it is not for them, especially after failure, to declare the time and manner and conditions of their restoration.

It is absurd to cite the resolutions we passed at the beginning of the war to induce these States to reconsider their folly. When you can breathe life into the nostrils, pour blood into the veins, and quicken the pulses of the hundreds of thousands whom *their refusal* struck dead, men may prate about promises and congressional resolutions *based on their assent*, but not till then!

At the outset of the rebellion the President of the United States, speaking confidently for the people, declared the Union was unbroken, that no plainly written provision of the Constitution had ever been denied, and pleaded elo-

quently with the South against its contemplated withdrawal. State after State, in utter disregard of all entreaties, had withdrawn its Senators and members, and still refused to return them. The blow was struck, the war went on, slavery still lived. The President and Congress again and again urged a practical re-acknowledgment of the national authority that the war might cease and the South return with all their rights. Compensated emancipation was tendered them; they laughed it to scorn. Their seats here and in the Senate Chamber remained vacant, while, at the bidding of those who left them, loyal blood still trickled down the mountain sides and the bodies of the loyal dead enriched the valleys of the South. At last forbearance ceased to be a virtue. Under the war power the President gave the people in revolt one hundred days' notice, in which time they were permitted to renew their allegiance without the overthrow of their institutions, especially inviting them to choose members of Congress in good faith and by elections in which a majority of their voters should participate. The proffer fell upon dull ears and hardened hearts, and under the same power, on January 1, 1863, he issued the great Emancipation Proclamation, absolutely freeing the slaves, save in a few excepted localities. Engrafted afterwards by constitutional amendment, it verified the promises of the Declaration of Independence, and all over the Union forever prohibited property in man.

The red right arm of war at last had changed the political privileges which the South was so long, so constantly pressed to preserve for itself. Slavery was to rebellion the heel of Achilles, and there it was smitten. The usurpers had staked their all on the hazard of battle. They bowed down before false gods. Rude iconoclasts, they broke the beautiful images of their loyal State governments, but the stain which marred their marble purity perished too. Nothing but victory could help them now. If defeated the United States might carve for them new forms of republican government, but the defect which their blinded vision loved would be omitted forever. One more chance was given them—not to restore these privileges—but to obtain terms of peace which might have secured them immediate representation. Abraham Lincoln even left his high seat for this purpose to meet their commissioners at Fortress Monroe. Separation or destruction was still their motto! Then the Union armies moved upon theirs, breaking their columns, seizing their cities, driving them along the valleys till they withered like a scroll, and in defeat and dismay surrendered to the majesty—ay, sir, I am happy to add to the clemency, of the Union.

And now who will be so bold as to say that upon this surrender the rebel States could, of their own motion and on their own terms, re-enter the American Congress? If so, let us look the fact in the face: no condition whatever could legally be imposed on them. In the prosecution of their attempt to break up the Government, they had contracted an enormous debt to their own followers, and to their sympathizers in England and elsewhere. They could of right return and endeavor to make the nation pay it. The war power had struck the fetters from the slave, but the constitutional amendment was not yet ratified by the States. They might with propriety have refused to adopt it, claimed their seats here, denounced the proclamation as invalid, and endeavored in Congress and out of it to render it a nullity. Ah! but gentlemen may say they did neither of these things; they were put upon terms in these two matters. Yes, sir, they were; and I thank the President that he forced them to do right, although they may even yet reconsider the repudiation of the rebel debt until the Constitution shall forbid it. But who could legally dictate these terms? And if such terms could be imposed, what can prevent Congress, the law-making power, from determining whether other guarantees are required.

Congress, under the Constitution, has the power to "declare war," to "suppress insurrections and repel invasions," yet in the view of some gentlemen here it may not inquire whether war or insurrection has utterly ceased! It may "constitute tribunals," yet it has no right to be informed whether such tribunals are still closed and the course of justice impeded! It can regulate

commerce "among the several States," as well as with foreign nations, but it must not see if such commerce has been illegally restricted! It may provide "for the general welfare of the United States," but when that welfare has been violently assailed it dare not ask even whether the assaults upon its integrity, or those it is bound to protect, still continue! "The United States shall guaranty to every State in the Union a republican form of government;" but after four years, during which all government recognized by the Constitution has been overthrown, woe be to Congress, the guarantying power, if it attempt to investigate whether republican government has been restored or now exists in any of these States! Oh, no; Congress, with all its great powers, is limited, they say, to that section which makes each House "the judge of the elections, returns, and qualifications of its own members;" and when, after four years of revolution and ruin, the member from Mississippi presents himself, Mr. Speaker, before you, if his election has been held at the regular time, if his return be duly signed and no one contest it, if with or without republican government, with or without loyal constituents, *he is willing* to be sworn, you have nothing to do but to swear him in, and we are powerless to make further inquiry. To state the proposition is to refute it.

One word more on this point: It is said that such was Mr. Lincoln's view of the case. The opinions of that lamented patriot, written and spoken, are just the reverse.

In order to foster loyalty, in order to end the rebellion by lifting up the hands of those who had strayed and were repentant, rather than by the dread wager of battle, Mr. Lincoln, on December 8, 1863, issued his amnesty proclamation, promising that when one-tenth of the number who voted for President in 1860 should in any State re-establish a republican government, it should be recognized as the true government of the State; and, not directing any election for members of Congress, he added:

"To avoid misunderstanding," * * * * "it may be proper to further say, that whether members sent to Congress from any State shall be admitted to seats *constitutionally*, rests exclusively with the respective Houses, and *not to any extent with the Executive.*"

More than this, when the war was ended, in his last public speech, referring to the Government he had endeavored to set up and sought to sustain in Louisiana, he thus alluded to the views above expressed, applying them, then and there, to that State:

"And I also [in the proclamation] distinctly protested that the Executive claimed no right to say *when or whether* members should be admitted to seats in Congress *from such States*. This plan was in advance submitted to the then Cabinet, and *as distinctly approved by every member of it.*"

Mr. Lincoln's views, it will thus be seen, were precisely those now held by Congress, and the following paragraph from the Senate judiciary report, of February 18, 1865, accompanying the joint resolution relating to the credentials of members claiming seats from Louisiana—a report and resolution which gave general satisfaction—denotes how fully these opinions governed the last Congress:

"The persons in possession of the local authorities of Louisiana having rebellion against the authority of the United States, and her inhabitants having been declared to be in a state of insurrection in pursuance of a law passed by the two Houses of Congress, your committee deem it improper for this body to admit to seats Senators from Louisiana, till by some *joint action of both Houses* there shall be some recognition of an existing State government acting in harmony with the Government of the United States and recognizing its authority."

But enough, sir, upon this subject. When the integrity of the Union was endangered by open and secret foes; when the land trembled with the shock of hostile forces, and timid men saw nothing but darkness in the future, the Government was found to possess ample power under the Constitution to preserve itself against treason and rebellion. It has equal right, now the cloud is lifted, to protect itself against their consequences; a protection which can be enforced only by law and afforded only by the power which makes the law.

What, then, are the conditions on which any rebellious State shall be restored to representation in the national councils? I answer,

That it shall conform by its constitution and laws to the change in political relations brought about by the war, accepting the issue in good faith, submitting to such acts of Congress, and ratifying, if required, such amendments to the national Constitution as fairly and equally embody the results of this great change.

Certainly there is nothing very harsh in this. But Congress is to judge of these conditions, and nervous people, more anxious as of old about what they call Southern rights than careful of national security, fear it will do wrong. I do not believe that Congress will act unjustly. I for one am not afraid to trust the national Representatives. They come directly from the people. They mingle with and catch their inspirations from that source. The elections take place less than a year from the time they are first sworn in, and if they err, the people will sit in judgment on them.

The creation of this body is the very essence of popular government. The Senate is only one remove further from the people. And this great republican idea, with a President coming too almost directly from the people, clothed with the veto power to check hasty or imprudent legislation, which on careful thought two-thirds may still overrule, is to me the most beautiful in theory, as it has been the most successful in practice, which the world ever knew. I cannot believe, sir, that either of these branches of the Government *will willingly trespass upon the privileges of the other*. I have faith that each will act honestly, and in this crisis of the country will be no less true than heretofore to every right of the Government and the people.

There is not a man in this House who does not desire the restoration of the functions of every southern State at the earliest moment consistent with the security of the whole. The Union was our watchword and battle-cry; our pillar of cloud by day and pillar of fire by night; our army was known only as the army of the Union. The great party which, rising above partisanship, prosecuted the war to a successful close, was the party of the Union. From the first shot at Sumter, all over the land, prouder than oriflamme or crescent, in every valley, on every mountain, from every window and house-top of the North, wherever our keels plowed the waters or the eddying waves of battle were the reddest, the flag of the Union floated in beauty, with not a star omitted on its field of azure. For this the conflict was accepted. For this the victory was won. This was the sacred trust we inherited, and the Union so admirably formed, cleansed now of its only blemish, we hope to hand down to the latest generation.

But several months have passed, and, terrible to relate, the Representatives from the South are not yet on the floors of Congress! Still more terrible, their claims have been referred to a joint committee to report upon; and perhaps more terrible still, gentlemen here charge that they are denied representation. I assert that they have never been denied the right of representation. I have said that Congress is to judge of the condition of these people; but it is for them to show themselves ready for representation here. If there is delay, it is their own fault.

Three months' delay! Why, sir, I have been one of those most urgent for the reports of the reconstruction committee. I want the country to know that full justice will be done. I am anxious that each State shall be found fitted for representation; but when I remember that the regular Election Committee, with no evidence to take, has not yet reported upon several of its cases, I believe the country will not expect too much of a committee which has to consider the most delicate questions ever presented to Congress, and which has already reported several bills of an importance not to be over-estimated.

Oh! but it is said, the committee is a joint one and revolutionary; it ties up the Houses to inaction. The Library Committee is a joint one, yet I never heard of its creating a revolution, even in literature! The Printing Committee is a joint one, but thus far has not destroyed the liberties of the press! Each subject presented is referred to some committee, and is only acted on as it reports. Upon this important subject the committee was made a joint one,

because it would be an anomaly to receive members from any State in this House when in the Senate its laws were found to cause a delay in the reception of Senators, and *vice versa*. The Houses are acting separately and respectively in this matter as in all others, joint reports only enabling them to present the question more speedily and harmoniously.

Admit each district to representation is the demand. Sir, it is the State which sends Senators, and the Legislature of the State which elects them. It is the State to which we must guaranty a republican form of government. It was by State conventions the people assembled to reorganize, not by districts. We are judging how far the work of reorganization is good. State lines are not obliterated, though the false doctrine of State rights is. The claimants from Tennessee, by memorial to us, tell how their State has been reorganized. They "submit that the said government is republican in form as well as in spirit, and they ask that the same be recognized and its perpetuity guarantied as the true and proper government of Tennessee;" not that they should be admitted by districts and our duties to their State shirked.

And here let me say I hope the day is near when this recognition and guaranty shall be given. Tennessee furnished thirty thousand gallant soldiers to the Union army, *several of whom are elected to seats here*. She was excepted in the proclamation of emancipation; but one of the first acts of her Legislature was to ratify the "constitutional amendment" by a unanimous vote; and while her functions, or those of any State fully organized before the war ended might be restored before a change in the basis of representation is finally ratified by the States, I believe she would adopt that too. She (as well as Maryland and Missouri) excludes rebels from voting till a term of years shall have naturalized, if not nationalized, them. Above all, her laws—so the committee seem to report—have accepted the issue of the war and embodied its results.

I hope I have disposed of the question of receiving members by districts. But if gentleman desire to be technical—and I do not—if powers exercised with an honest purpose are questioned because the two Houses, the Congress, are doing what is contended each House should do separately, let me add that, from the insurrectionary States organized since the rebellion ceased, there has not perhaps been a single member elected to this House constitutionally, or who could take his seat if the Supreme Court, instead of ourselves, had to determine the question. Article one, section two, of the Constitution prescribes that—

"When vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies."

If it be alleged that the southern members left by districts, and so may return to their places, I answer that the Executive of the State must issue the writs of election. If, on the other hand, as the President well says in his several proclamations appointing provisional governors, the rebellion "has, in its revolutionary progress, deprived the people [of each State] of all civil government," such government must be established anew. The President directed conventions to be chosen by the loyal people in each such State, with authority "to present such a republican form of State government as will entitle the State to the guarantee of the United States therefor." Surely it cannot be that with the State laws not yet re-established, a convention may redistrict a State, or order elections for members of the national legislature.

Yet in all of these States save one there was such haste to obtain power again, they could not wait till an Executive was elected, but the writs were issued under the provisional governors, and the elections ordered without law by the *conventions*. The North Carolina certificates are even signed by "W. W. Holden, Provisional Governor." In South Carolina the Legislature ordered the election, but there was no Executive to sign the law, and it cannot even be supported under their old laws, as the *convention* had redistricted the State. In Virginia fourteen delegates and six Senators, calling themselves a Legislature, not only changed the time of election for members of Congress, but assumed the duties which, under long-settled usage, belong only to a convention *called for the purpose*, and changed their constitution.

The accusation of delay may be still better appreciated when I state that, except from Tennessee, Arkansas, and one or two from Louisiana, there are very few of those sent here who could take "the iron-clad oath" if the doors were thrown open to them.

Is Texas denied representation? Thus far no Governor or member of Congress has been elected in this State, where Generals Howard and Gregory tell us slavery still virtually exists. Her convention is only now in session.

What of Georgia, which sends as Senators Alexander H. Stephens, the vice president of the confederacy, and Herschel V. Johnson, of the rebel senate? Her provisional governor telegraphed to the President, "*No members of Congress elected can take the oath.*" Do we deny representation to her or has she paralyzed herself?

And Mississippi, which, after electing as Governor a confederate major general, who was pardoned to enable him to take the office, passed laws so violative of equal liberty under the Constitution and equal right before the law that the President instructed General Thomas to disregard them?

What of Virginia, which restored rebels to the right of suffrage, and whose unjust vagrant laws, founded, too, on a previous agreement among the planters to keep down wages, General Terry had to set aside?

How is it with South Carolina, whose Legislature, after repeated requests from the President to repudiate the rebel debt, took good care to adjourn without doing so, having provided that "persons of color shall be known as *servants* and those they contract with as *masters*?"

And Alabama, whose Executive is Governor Patton, the confederate cotton loan agent, and whose aristocratic and anti-republican laws, almost re-enacting slavery, among other harsh inflictions impose an imprisonment of three months and a fine of \$100 upon any one owning fire-arms, and a fine of fifty dollars and six months' imprisonment on any servant or laborer (white or black) who *loiters* away his time or is *stubborn or refractory*?

Can Florida complain? By an ordinance of the convention, adopted November 4, 1865, a vagrant in that State shall be punished by a fine not exceeding \$500 and imprisoned for a term not exceeding twelve months, or by being sold for a term not exceeding twelve months, at the discretion of the court; the convention, be it understood, the same week declaring that "slavery had been destroyed in this State by the Government of the United States," and no later vagrant act having been reported to us.

Or can North Carolina? a State where General Duncan stopped the enforcement of laws "deemed an essential part of the old slave code," where the enactment of a code to protect the freedmen was made dependent on the withdrawal of the bureau for freedmen and refugees, and whose convention *very naturally* requested Congress to repeal the "test oath," for at least one of its Senators and most of its members *cannot take it*.

It is with no pleasure that I cite either the law or the facts against any of these States. I wish both were otherwise. What I have said has been by way of defense not attack. It will be a proud day when, their rehabilitation complete, the loyal Representatives from all of them can meet here, beneath the shadow of the old flag, remembering its glories, rejoicing in its triumphs, consecrating it for the dominion of a continent in the future, and still unfolding its undying promise to the oppressed throughout the world. When that time, I trust not far distant, shall come, pæans of joy will be chanted all over the land, and the thunder from a thousand brazen throats, speeding over hill and prairie and river, will be echoed far across the sea, proclaiming in tones never again to be mistaken, that American liberty and American union shall go hand in hand down the pathway of the ages. God speed the day! But while it is a beautiful thing to be merciful, it is still grander to do right. Disloyal practices, unjust legislation, oppression, and wrong must not again be the stepping-stones to power. These local governments, in their reconstruction, must be built on the eternal principles of right, or crumbling upon their own citizens, they may once more shake to their foundations the very pillars of the temple of liberty.

The loyal men of the South, overborne during the rebellion and almost excluded now, demand it at our hands; common justice, a common country, cry aloud to us to be true.

We *have been* merciful. Never did a nation behave more generously. We fought for the flag, for liberty, for law, for the Union. There was no rancor, no vengeance, not even retribution, only a holy love of country, an unswerving belief that our cause was just, that we were stewards for posterity and dared not betray our trust: that death was better than dishonor. Our merchant marine was swept from the seas by pirates, our prisoners were starved, guerrillas murdered our stragglers, arson was plotted for our cities. We met bitterness with dignity. We told our wrongs only that civilization might shudder at them. Ascribing them all to the teachings of slavery, we cared for the captives and still pleaded for justice in the name of liberty. When the insurrection was crushed the rebels had little right to expect, and did not expect, to participate in the national councils for years. Their soldiers, brave in a bad cause, have no complaint now. Those who fought on either side understood this question fully. They felt the struggle, they knew what it was for, and *neither side supposed that victory meant defeat*. Our kindness did not end here. We saved their cities from the torch applied by their own generals. Want stared them in the face; high and low, every age, sex, and condition received supplies from the Union army. Desolation followed in the track of war; the rebellion had brought enfranchisement for white and black, and this great Government did its most generous deed in providing a bureau for refugees and freedmen, that these suffering southern men and women, white and black, might be protected and sustained till the right to labor and to receive the rewards of labor should be recognized; until confidence restored and business flowing in its accustomed channels should render the department needless.

The committee on destitution and supplies, of Alabama, reported to their Legislature that in January of this year the Freedmen's Bureau distributed 13,000 rations per day; "given alike to whites and blacks." In September last the assistant commissioner at Mobile reported rations issued on August 1, 1865, to 3,570 "destitute citizens;" the list in September standing, 1,742 persons, "*ninety-five per cent. of whom were rebels*." The rations issued in January, 1866, in Arkansas, were 59,532 to refugees, 11,696 to freedmen; in South Carolina, 68,452 to freedmen, 4,563 to refugees. Mississippi, in February, received 1,076 rations for refugees, 20,039 for freedmen. Kentucky and Tennessee, last August, 3,777 for refugees, 3,785 for freedmen.

And all this time every beneficence of the General Government has been gently extended over the South equally with the North. The courts are open; the post office brings us together once more; the local machinery of the States goes on undisturbed; trade and commerce are carrying new life to the southern capitals. With labor made honorable, capital and enterprise are developing the natural advantages and vast wealth of the South. We enact no differing code for the sections, but equal laws for all. If the military remain it is not our fault, but rather as a protection. General Grant says:

"I did not meet any one, either those holding places under the Government or citizens of the Southern States, who think it practicable to withdraw the military from the South at present. The white and the black mutually require the protection of the General Government."

I appeal to the men of the South, from Tennessee to the Gulf, whether I have not spoken truly. If I have, their tongues should blister before charging upon us a desire to oppress, or to deprive them of their rights. The northern leader who does so, after full knowledge of the fact, is lured only by the thirst for political aggrandizement. His soul panteth after it "as the hart panteth after the water-brooks." To reach it he would strike down the blood-bought privileges of the people and scatter to the winds the fruits of a victory which vindicated before the world the dignity of labor and restored to a great nation its birth-right.

Let us see, then, whether, meeting in a spirit of kindness and mutual trust, the ground I have indicated is not one upon which all can stand, PRESIDENT, CONGRESS, and PEOPLE.

The great change of which I have spoken is that from slavery to freedom. Slavery gone, its laws, its prejudices and consequences, should be buried forever. We are legislating for mankind. If there be wrong, now is the time to right it; if there be defects, this is the forum in which to remedy them; if doubts remain, the present is the hour to solve them. The craven may shift the responsibility, but civilization will hold us accountable for the performance of our whole duty.

This change requires:

1. That no law of any State lately in insurrection shall impose by indirection a servitude which the Constitution now forbids.

If it be answered that the second clause of the amendment abolishing slavery gives Congress power to enforce this result by appropriate legislation, I reply that we do not choose to keep a standing army in the future to enforce acts of Congress, when we can prevent such legislation by the States.

2. That each State shall provide for equality before the law, equal protection to life, liberty, and property, equal right to sue and be sued, to inherit, make contracts, and give testimony.

Not one of the rebel States allows a negro to give testimony against a white man; several impose punishments which differ according to the color of the offender. The second clause of the amendment asserts no power to remedy this; but even if it did, or if the bill to guaranty civil rights under another section of the Constitution confers the authority, we are not compelled to meet at every step a conflict of jurisdiction, or punish innocent State officers for enforcing State laws which should be annulled.

To these two propositions Congress has been earnestly addressing itself in the testimony taken by its committee, as well as to the condition and conduct of the people of these States. In order to be fully informed of their legislation, the Senate, on January 5, and again on February 27, of this year, requested information of the President in regard to their provisional governors. On the 6th of this month he transmitted a reply, and *within a few days only* this evidence has been published.

But the war brought other results which should be embodied forever in the organic law by constitutional amendment. If not done now the golden opportunity will be gone forever. Congress has been conscientiously endeavoring to present propositions which will do equal justice to all, and forever settle the controversy. Two such amendments passed this House. As to the justice of one there is no question. The other in some shape will, I have not a doubt, prevail during the present session. One is to declare by constitutional amendment that no part of the rebel debt shall ever be paid by the United States.

Who will object to such a provision? It is of no force to allege that the States have already declared those debts void which they contracted in aid of the rebellion. What one legislature has done another may repeal. The war debt of the Union must be sacred, that of the rebellion forever excluded.

Let me on this point read the very excellent telegram sent by the President, November 5, 1865, to Governor Sharkey, of Mississippi, in relation to slavery:

"The action of the Legislature of Mississippi is looked to at this time with great interest, and a failure to adopt the amendment will create the belief that the action of the convention abolishing slavery will hereafter by the same body be revoked. The argument is, if the convention abolished slavery in good faith, why should the Legislature hesitate to make it a part of the Constitution of the United States?"

Article six, paragraph one, of the Constitution provides that—

"All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation."

It is as appropriate now to exclude an illegitimate obligation as it was then to provide for an honorable one.

While I favor this amendment, candor compels me to say we may be safe without it. I hope it will be adopted. Yet, if every other guarantee were obtained, we might trust to the acts of the Legislatures in reference to this question. But there is another amendment needed, involving a vital principle,

which was partially yielded because of slavery, and should now be reinstated. Under article one, section two, of the Constitution--

"Representatives and direct taxes shall be apportioned among the several States which may be included in this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons."

Every one knows that this three-fifths clause was inserted because of the existence of slavery. It was only passed after much debate and heated discussion in the convention which adopted the Constitution; men like Butler of South Carolina, General Pinckney, and others, insisting that "blacks be included in the rule of representation equally with whites;" the same Charles C. Pinckney who afterwards, in the South Carolina convention, urging the adoption of the Constitution, said:

"We determined that representatives should be apportioned among the several States by adding to the whole number of free persons three-fifths of the slaves. *We thus obtain a representation for our property.*"

Mr. Randolph "urged strenuously that express security ought to be provided for including slaves in the ratio of representation. He lamented that such a species of property existed; but, as it did exist, the holders of it would require this security."

On the other hand, Mr. King "thought the admission of them along with whites at all would create great discontent among the States having no slaves."

Gouverneur Morris "could never agree to give such encouragement to the slave trade as would be given by allowing the southern States a representation for negroes," and did not believe Pennsylvania would agree to it.

Mr. Gerry "thought property not the rule of representation; why, then, should the blacks, who were property in the South, be in the rule of representation more than the cattle and horses of the North?"

Mr. Wilson said "he did not well see on what principle the admission of blacks in the proportion of three-fifths could be explained. Are they admitted as citizens? Then why are they not admitted on an equality with white citizens? Are they admitted as property? Then why is not other property admitted into the computation? These were difficulties which he thought must be overruled by necessity or compromise;" and accordingly this "compromising expedient of the Constitution," as Madison terms it, this inequality, based upon wrong, was adopted, the same proportion entering into the basis of taxation. And so from the foundation of the Government the South has had this unfair representation in the national councils, to make up for which a direct tax, only collected a few times in our history, and which might well be repealed or its basis changed, has been nominally imposed on them in the same ratio.

Slavery being dead, it becomes us at once to alter the representation founded upon it. I ask it on behalf of the North; in the cause of the Union, which should never again be disturbed by a discussion of the question; in conformity with the representation adopted by the southern States themselves; and I ask that an amendment embodying it may be passed by Congress, even if not ratified, before any insurrectionary State is again represented here.

IT IS JUST TO THE NORTH.

The whole number of Representatives in Congress is established by law at two hundred and forty-one.

The South under the next apportionment must either lose this representation on three-fifths of the negroes, or gain two-fifths and mount to power on the whole. Unless the ratio be altered the South will gain twelve members; those twelve members will be taken from the number we now have, equivalent to twenty-four. If they are so gained, the vote of every white man in the South will be nearly equal to two at the North, and the rebellion will have produced for the former more power than the arch-traitor Jefferson Davis, in his long years of plotting and fondest visions of aristocracy, ever compassed. Let the laboring man who has given his son to the country ponder over this fact, and the Representative beware how he votes away the liberties of the people.

IT IS FIDELITY TO THE UNION.

C. C. Langdon, elected to this House from the Mobile district of Alabama, over his own signature, says: admit the twenty-two Senators and fifty-eight members from the South, "and the radicals cannot carry anything by a two-third vote." Yes, even under the present three-fifths representation, and without the gain which the next apportionment would bring, the *radical Union men* in Congress would be tied hand and foot by the representatives of those who, not many months since, stood in battle array, as they had done for four dreadful years, against the banner of their country. Self-preservation dictates that for the sake of that Union they strove to destroy we shall pass now whatever constitutional amendments are needed. Admit these eighty "conservatives" first, and the discussion may as well be postponed indefinitely.

IT IS FAIR, HONORABLE, AND EQUAL FOR THE SOUTH.

Mr. Speaker, I want no law for the South that is not to apply equally to the North. I hear a great deal about taxation without representation. North and South there are human beings who are taxed without being represented. I assert that we have no right to take advantage of our own wrong; that where any class is excluded from the elective franchise we are not entitled to representation for such excluded class. I voted for such a proposition. I would be willing, that having failed, to adopt the proposition of basing representation on voters, counting all as voters who had once exercised the privilege and lost it by rebellion or crime, and waiting for each census to add that part of the foreign population which is continually drifting into a voting one. But some such alteration becomes a vital necessity. And why should the South complain? Mr. Madison, in No. 54 of the *Federalist*, arguing in favor of the three-fifths clause in the Constitution, says:

"It may be replied that slaves are not included in the estimates of Representatives of *any of the States* possessing them. They neither vote themselves nor increase the votes of their masters. Upon what principle ought they to be taken into the *Federal estimate* of representation? In rejecting them altogether the Constitution would in this respect have followed the very laws which have been appealed to as the proper guide."

And trying, as it were, to stem the tide, he adds:

"Let the case of the slaves be considered, as it is in truth, a peculiar one."

Very well; it is now alleged by the South that had the slaves been freed they would have been counted man for man in the basis. Perhaps they would at that time, for in nearly every State the free negroes then had the right to vote. They voted for and aided to elect a member of Congress in Tennessee as late as 1828. They took part in most of the State elections to the Constitutional Convention and the conventions to ratify the Constitution of the United States, and this argument would act as a two-edged sword. But be the fact as it may, certain it is that in nearly every southern State the basis of representation for the *State Legislatures* omitted the important element of power which existed *federally*.

The Kentucky constitution of 1799, by proviso reenacted in 1850, made "qualified electors" the basis; that of Arkansas, adopted in 1836, in force in 1861, "free white male inhabitants." The Mississippi constitution of 1817 apportioned representation according to the number of "free white male inhabitants;" the Louisiana constitution of 1812 upon "qualified electors," and it was not until 1852 that this was altered to "the total population of each of the several parishes of the State." That of Texas was based by the constitution "on the number of free population." The Alabama constitution, adopted in 1819, on the "number of white inhabitants;" Tennessee, by her constitution of 1796, revised in 1835, on "qualified voters;" and that of Missouri on "permanent free white inhabitants." In Virginia, where the rule was reversed, the State was racked with dissensions arising out of the unequal representation afforded by slavery to the tide-water counties and those east of the Blue Ridge. Twice were conventions assembled, in 1830 and again in 1850, to remedy the evil; but the slavery element was too powerful for the yeomen of West Virginia, who

received scarcely enough concessions to keep them from separation till the rebellion came. In the convention of 1830, Mr. Baldwin, expressing the bitterness to which the contest had arisen, said:

"The eastern people demand, as we are told, only security, not for their personal rights, but for their property, and it is granted by conceding representation according to federal numbers in the Senate. They would sustain no pang of humiliation by yielding to the basis of white population in the House of Delegates, and would soon become reconciled to the compromise. What do the western people demand? That equal representation which is to give protection not only to their property but to their persons, and place them upon an equality with the other freemen of the Commonwealth. Let the principle of federal numbers, in whatever degree, be introduced into both Houses, and the hardy yeomanry of the west will never be satisfied. The final result will be a separation of the State."

But this was during slavery. Since the shackles have fallen, however, these States persist in excluding from their basis of representation those whom they exclude as a class from political privileges. Tennessee, Missouri, Maryland do so. Louisiana was restored to the white basis. In the late Alabama convention there was a struggle to strike it out, but the mountains, ever the home of liberty, triumphed over the lowlands and retained the white basis. Even aristocratic South Carolina has abolished her rotten-borough system and advanced rapidly toward the right. Provisional Governor Perry, in his message to the South Carolina convention, well reminded them that "twenty or thirty voters in one of the parishes whose population and taxation combined entitle it to only one member in the House of Representatives have the same representation in the Senate that three thousand voters have in Edgefield district. Now that slavery is abolished a reformation in this respect is imperative, and must be adopted."

Surely what the South is doing at home cannot be far wrong when demanded here. Surely if the reduction in number of Representatives from the South be urged as an objection, the answer now is as perfect as in the early days of the Republic, that the States, small and large, *have an equal voice in the Senate*, and that the House of Representatives derives its power directly from the expression of the popular will.

In 1842 Andrew Johnson introduced the following resolution into the Tennessee Legislature:

"Resolved, That the basis to be observed in laying the State off into congressional districts shall be the voting population, without any regard to the three fifths of the negro population."

Last October, in conversation with George L. Stearns, since published, he still spoke approvingly of the idea. If the same Andrew Johnson, now the Chief Magistrate of a great Republic, will give this or some kindred plan his support in this trying juncture, I believe it will pass Congress as an amendment to the Constitution and be adopted by three-fourths of the States in a few months, and then, sir, these insurrectionary States, having conformed to the laws as I have stated, I for one am in favor of receiving from them such loyal Representatives as they may send, and binding up every wound.

I know that rebellion is still rife in the hearts of many of their people; that the President still keeps the writ of *habeas corpus* suspended in the South; that the military cannot yet be removed with safety to its citizens; that the national airs are hissed, as was done in the theater at Mobile lately, the newspapers calling upon the general in command to forbid the performance of tunes calculated to annoy their citizens; that "no steamer below the mouth of the Ohio flies our flag, no hotel in the southern cities spreads it to the breeze; and on the 21st of last month General Wood, commanding the department of Mississippi, was forced to issue an order that "the national flag shall be respected;" that General Grant has suppressed newspapers in the South for disloyal sentiments; that the gray there continues more fashionable than "the blue."

This and much more might be adduced to prove that the "confederacy" is still odorous in the nostrils of the South. But I do not believe the southern heart can be changed in a day; perhaps not entirely in a generation.

With *liberty and equal civil rights* ingrafted by law and Constitution, accepting none who are disloyal, I am willing to trust to *fraternity* in the future.

Distinguished men who now ask its exercise, I know, believe that power was



conferred originally in the Constitution to regulate suffrage in the States. Without denying this, I assert that contemporaneous legislation and uniform custom have been the other way. I know, too, that still others claim this right under the late amendment to the Constitution, alleging that freedom made the negro a citizen and a part of "the people of the several States," who, by section two, article one, of the Constitution, are to choose members of the House of Representatives. Citizenship alone does not give the rights of an elector. The negro was a citizen before his fetters were burst. It is true, however, that all civil government in these States, recognized by the Constitution, being overturned, reverted to the people. The whole people, *not the disloyal part of it only*, had a right to be heard in its restoration. But this was not done. The President organized these southern governments, leaving this element out, and as education is needed to give it fitness, I am satisfied not to demand of the South a policy which my own State has not adopted, asking, however, of South and North, that a population excluded from voting shall not avail in any State for the purposes of representation.

Some such plan as I have proposed—and *I shall be glad to accept a better one*—would prevent future rebellion against the Government and future wrong to the citizen. I earnestly trust that Congress will soon be enabled to declare on what terms the insurrectionary States may have full communion with those which remained true and loyal.

Indemnity for the past is impossible. The dead cannot be recalled to life. But security for the future is demanded; demanded by the sacred dust of the martyrs for liberty; demanded by the laboring masses South as much as North; demanded by the widow and orphan, widowed and orphaned to gratify the unholy ambition of infamous demagogues whose treasonable crimes are still unpunished; demanded by the maimed and diseased who suffer from the conflict; demanded by every soldier and sailor who fought to preserve the Union won by the Revolution, guarantied by the Constitution, and now cemented once again and forever by patriotic blood.

That once obtained, and it need not be a question of many months, the United States will present a spectacle of beauty and strength such as the world has never seen. Skilled in the art of war by the ordeal of battle, with a navy that has made us the astonishment of Europe, there is no fear of the future. Our commerce swells every sea and decks every shore. Science has wrought for us its choicest wonders. New manufactures invite, South and North, the energy and capital of our citizens. The land is "flowing with milk and honey." The mountains teem with mineral wealth. Broad, beautiful rivers, bearing rich argosies to the ocean—our veins and arteries—are met and crossed by bands of iron, fresh bonds and ligaments to unite us; shortly it is hoped to stretch from the Atlantic to the Pacific.

The wildest day dream of the enthusiast will soon be realized, for labor, vindicated and respected, has found its enduring home and will meet its just reward in the regenerated American Union.

LIBRARY OF CONGRESS



0 013 744 676 5

